

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAVIER BAUTISA,

Plaintiff,

-against-

TAP AIR PORTUGAL,

Defendant.

Case No. 1:24-cv-00503 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

On January 24, 2024, Defendant removed this case from New York state court. ECF No. 1. On February 21, 2024, the Court ordered the parties to appear at an initial pretrial conference on March 19, 2024, at 10:30 a.m. ECF No. 9. The docket reflects that a copy of this order was mailed to Plaintiff's address on file on February 22, 2024. *See Dunn v. Albany Med. Coll.*, 445 F. App'x 431, 432 (2d Cir. 2011) (summary order) ("[W]here the record shows that a properly addressed piece of mail was placed in the care of the Postal Service, that piece of mail is presumed to have been delivered." (quotation marks and citation omitted)). To date, the Court has received no communications from Plaintiff.

On March 8, 2024, Defendant filed a letter with the Court stating that it "ha[d] made a good faith effort to confer with Plaintiff through attempting multiple times to contact Plaintiff prior to the Conference," all to no avail. ECF No. 10 at 2. On March 15, 2024, the Court "request[ed] that Defendant attempt again to contact Plaintiff and determine whether Plaintiff will attend the initial pretrial conference on March 19, 2024." ECF No. 13.

On March 18, 2024, Defendant filed another letter with the Court. ECF No. 14. Defendant stated that on March 8, 2024 (after filing its previous letter), it "received a call from Plaintiff. In this call, Plaintiff repeatedly refused to agree to confer with [Defendant] regarding this matter and asserted that he would not be attending the Pretrial Conference

scheduled for March 19, 2024.” *Id.* at 1. Defendant added that it had twice called Defendant (once each on March 16 and March 17, 2024) and left “detailed voicemail[s].” *Id.*


The Court held its initial pretrial conference on March 19, 2024, as scheduled. Defendant attended. Plaintiff did not appear, nor did he contact the Court to state that he had a conflict or any issue with the scheduled Court-ordered conference.

Given that Plaintiff is *pro se*, the Court will reschedule the initial pretrial conference in this case for **April 9, 2024**, at **12:00 p.m.** in Courtroom 23B of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, 10007. However, by failing to appear at a Court-ordered conference to which Plaintiff was aware, Plaintiff has wasted the time and expense of Defendant and flouted this Court’s order. Plaintiff must inform the Court by **April 2, 2024**, if he intends to continue prosecuting this case and confirm that he will attend the conference on April 9. If Plaintiff does not confirm his continued prosecution of this matter by April 9, then the Court will adjourn the April 9 conference, and it may also dismiss Plaintiff’s action without prejudice for failure to prosecute. *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962); *Feurtado v. City of New York*, 225 F.R.D. 474, 477 (S.D.N.Y. 2004); *see also Kotler v. Jubert*, 986 F.3d 147, 156 (2d Cir. 2021).

The Clerk is directed to mail a copy of this Order to Plaintiff and Defendant is directed to email and mail this Order to Plaintiff immediately. Defendant shall file proof of service of this Order.

Dated: March 19, 2024
New York, New York

SO ORDERED.


JENNIFER L. ROCHON
United States District Judge